

FLOOD CONTROL ADVISORY BOARD

MINUTES

August 22, 2001

The monthly meeting of the Flood Control Advisory Board was called to order by Chairman Patel at 2:00 p.m. on Wednesday, August 22, 2001.

Board Members Present: Hemant Patel, Chairman; Shirley Long, Vice Chair; Melvin Martin; Scott Ward; Tom Callow, Ex Officio; Paul Cherrington, Ex Officio.

Board Members Absent: Mike Saager, Secretary.

Staff Members Present: Michael S. Ellegood, Chief Engineer & General Manager; Julie Lemmon, General Counsel; Tom Johnson, Deputy Chief Engineer; Dick Perreault, CIP/Policy Branch Manager; Afshin Ahouraiyan, Project Manager; Marilyn DeRosa, Project Manager; Russ Miracle, Planning Branch Manager; Paul Stears, Project Manager; Scott Vogel, Project Manager; Michael Alexander, Management Analyst; Kathy Smith, Clerk of the FCAB; Monica Ortiz, Administrative Coordinator.

Guests Present: Kofi Awuman, Huitt-Zollars; David Buras, HDR Engineering; Ed Fritz, MCDOT; Brian Fry, Dibble & Associates; Teri George, David Evans; Jon Girand, Huitt-Zollars; Peter Knudson, City of Mesa; Burke Lokey, Coe & Van Loo; L. Steve Miller, PEC; Hasan Mushtaq, City of Phoenix; David Ramirez, City of Goodyear; Mary Reece, Bureau of Reclamation; Jerry Zovne, Parsons Corporation.

1) **APPROVAL OF THE MINUTES OF THE MEETING OF MAY 23, 2001**

ACTION: It was moved by Mr. Martin and seconded by Mr. Cherrington to approve the minutes as submitted. The motion carried unanimously.

2) **NEW RIVER CHANNEL IMPROVEMENTS (GLENDALE)**

Marilyn DeRosa, Project Manager, presented IGA FCD 2000A007, between the District and the City of Glendale for the design, rights-of-way acquisition, utility relocations, construction, construction management, and operation and maintenance of the New River Channel Improvements and 83rd Avenue Grade Control Structure Project.

The IGA provides that the City of Glendale will design the bridge and the drop structure as part of that bridge, acquire the rights-of-way, construct the bridge and the drop structure, and perform

operation and maintenance once the project is complete. The District and the City of Glendale will cost share on the drop structure only, and the District will provide construction management services for a credit. The estimated total cost for the drop structure is \$1.4 million, which is approximately \$700,000 for the District and which will be paid in two fiscal years.

Staff recommended that the Flood Control Advisory Board approve and recommend that the Board of Directors approve IGA FCD 2001A007.

Discussion:

Martin: Julie, if we are in charge of the construction management are we in charge of future liability of the bridge?

Lemmon: I think that we would assume some liability by virtue of the work we did. We would have to do it in a proper, non-negligent way.

Patel: When was the master study done?

DeRosa: It was entitled the Middle New River Watercourse Master Plan and was completed in June 2000 – a little over a year ago.

Martin: Is there any cost structure in for the liability of the bridge?

Lemmon: The agreement does not have anything that addresses an extra cost, like a cost of insurance. In the agreement, we agree that we will be responsible for the things that we undertake, so we would be responsible for doing a good construction management job.

Martin: Will our general liability policy that we have specifically carry a bridge like this?

Lemmon: The District is self-insured as part of the County's Risk Management pool, so we wouldn't be carrying a specific insurance policy to cover this project. This would be covered under our general insurance from Risk Management.

Martin: For a special project, I thought maybe we would have to buy a special policy.

Lemmon: Not that I'm aware of. The contractor will be carrying insurance that will cover everyone involved as additional insureds. But, as our job of construction management, it would be just part of our other activities. I was thinking of other times when we have done this – I know we built part of the Gila River Indian Irrigation Project along with the Southeast Valley Regional Drainage Project when we crossed the freeway, so we wouldn't have to tear the interstate up twice. I know that we supervised that, is that correct Don Rerick? He's saying 'yes.' We have done this in the past without adverse impact, but it is certainly an issue we can look at in detail if you would like us to do that. Did I answer your question, Mr. Martin?

Martin: Yes.

ACTION: It was moved by Mr. Cherrington and seconded by Mr. Callow to approve staff recommendations. The motion carried unanimously.

3) **NEW RIVER CHANNEL IMPROVEMENTS (PEORIA)**

Marilyn DeRosa, Project Manager, presented IGA FCD 2001A017 between the District and the City of Peoria for cost sharing of the New River Channel Improvements and 83rd Avenue Grade Control Structure Project.

This IGA is for cost sharing only between the District and the City of Peoria. The District, when invoiced by the City of Glendale under the terms of IGA FCD 2001A007, will invoice the City of Peoria for half of the District's obligations under the previous IGA. The total cost of the drop structure (\$1.4 million), Glendale will pay 50% (approximately \$700,000), the District will be obligated to pay \$700,00, but will collect \$350,000 of that from the City of Peoria. The ultimate cost share for the drop structure is 50% Glendale, 25% District, 25% Peoria.

Staff recommended that the Flood Control Advisory Board approve and recommend that the Board of Directors approve IGA FCD 2001A017.

ACTION: It was moved by Mr. Cherrington and seconded by Ms. Long to approve staff recommendations. The motion carried unanimously.

4) **BULLARD WASH CHANNEL IMPROVEMENTS, PHASE II**

Scott Vogel, Project Manager, presented IGA FCD 2001A006, between the District and the City of Goodyear for cost sharing and design of the Bullard Wash Channel Improvements Project, Phase II.

This Project provides one of the three regional outfalls for the White Tanks area and multi-use opportunities. The floodplain along Bullard Wash would be reduced. In addition, the Project will provide public safety in that the three major wash crossings – Yuma, Van Buren, and McDowell – all become impassable during storm events requiring emergency vehicles from the municipal area of Goodyear to go down to MC85 or up to I-10 to get over to areas west of Bullard Wash.

The overall project, including design, right-of-way, and construction is estimated to cost \$25 million. The District is intending to do a 50/50 cost share with the City of Goodyear. For the portion of the project that is included in the Design IGA, the District would be the lead for the design and would pay 50% of the design cost and the City of Goodyear would be pay 50% of the design cost. It is anticipated that the design will cost approximately \$1.6 million, making the District's and City of Goodyear's estimated cost at \$800,000 each.

Staff recommended that the Flood Control Advisory Board approve and recommend that the Board of Directors approve IGA FCD 2001A006.

Discussion:

Patel: What's the cost influence of that creek, are there structures, road crossings, bridges?

Vogel: Yes, along Bullard Wash, we've got the channel itself along Bullard Wash, the diversion structure that takes flows from Bullard Wash to the ADOT basins, an outfall that potentially needs to be built out of the basins, the bridge crossings at McDowell Road, Yuma Road, and Van Buren Street; as well as the diversion channel bridge or box culverts at Bullard Avenue.

Patel: Normally on a channel project, who pays for the road structures? Who owns these roads?

Vogel: These roads are owned by the City of Goodyear.

Ellegood: Typically, if there is a road in place and as a result of a flood control project we had to tear the road up, the reconstruction cost of that road are borne by the project. There are exceptions. Quite often, we will plan a project where a road improvement is anticipated, and we'll partner with City of Phoenix or MCDOT, in which case they take care of the road and we take care of the drainage facilities. In this instance, since no road improvements are anticipated, in order to convey the channel, we need to construct a box culvert. It's generally agreed that in this instance, the box culvert or structure would be included as a project cost. Currently there is no water conveyance there as you witnessed in the photographs, with the water going up over the road.

Vogel: On this project, as we do with many other projects, the District's intent would be to cost share on the existing road section that is there today. Most of these crossings are two-way roads, one lane in either direction. The District's cost share would be to replace one lane in either direction. Quite of ten the cities come back and would like to upgrade their roads for future widening. We would require that that additional cost be borne by the cities.

Martin: You talked about diverting part of the flow to the detention area and the rest of it down Bullard Wash, how are you going to accomplish that?

Vogel: What we anticipate using at that location is what we call a side weir structure, where the Bullard Wash Channel would be constructed such that the side of the channel where we want the flows to overtop and go into the diversion structure is lower than the opposite side of the channel. When the flows get high enough, they actually just peel off and take a left turn down the diversion channel.

Martin: Don't you want most of the water going to the retention area?

Vogel: Actually, in this project we'd like most of the water to get out down to the Gila River and only take the peak flows – the highest flows – and take them off into the detention basins.

Martin: If I remember right, I think the Board turned down the fact that we wouldn't build a bridge on Van Buren. That's a major thoroughfare.

Ellegood: We looked at this as the box culvert structure would be part of the overall project. If it's the Board's wish that the City of Goodyear bear that cost, then we'll go back to the City of Goodyear and negotiate it.

Ward: The goal of what we are going to approve is to design this in one project, correct?

Vogel: This IGA is for cost-sharing of the design of these improvements, correct.

Ward: I'm an advocate of doing that. I think that if you go back to the map you'll show where police, fire, paramedics are and a number of new homes coming across the other side of that wash. Inevitably, I think what will happen is that when funds become available you'll see this project designed in it's entirety, but you'll see what is the best all-weather box culvert area and the most cost effective to build at that time. You won't raise all the money at one time to build the entire drainage channel as well as all the crossings. You'll come back to the Board of Supervisors and say 'hey, we want to do Van Buren at that time or we want to do Yuma. Am I heading in the right direction?

Ellegood: This will probably be a multi-year project, given the anticipated cost of \$25 million, so it will probably spread over two or more years. At the same time, it's probably more cost effective to bid the whole thing as one project even though it may stretch over two years. If the FCAB has reservations about what our responsibilities are relative to constructing box culverts or roadway crossings, I would suggest that we proceed with the design as you have suggested and that with this Board's direction, we just simply go to our client city of Goodyear and tell them we've been directed not to pay for those crossings.

Patel: Do we have anyone from Goodyear here today?

Vogel: David Ramirez, a City Engineer from the City of Goodyear, may want to speak to this project.

Ramirez: If I understood Mr. Ellegood's statement, I think at this point if we're unsure as to whether the bridges should be included in the construction phase, if we could move forward with the design. It is our intent to build these bridges with the project. Maybe give the City and Flood Control some time to work through that issue as to whether when we get to the construction IGA phase that we can resolve that issue.

Patel: Are you aware of any projects in the near future, either privately driven or city funded, that we could get a three-way cost share on the structures.

Ramirez: Actually there are some residential developments currently under way along both the Van Buren and the Yuma alignments. They have their own standard requirements to improve the half street. Typically, there is not a major structure such as this as part of their half street improvements, but we have begun discussions with them in terms of getting cost participation, not only in paving half street improvements but also in the culvert crossing itself.

Callow: Mike, this is not a new policy that you're doing here, this has been fairly typical for everyone that we include the crossing as part of the project, correct?

Ellegood: No, this is not a departure from what we've done in the past.

Patel: How much of a proponent of the \$25 million are the structures – what is the breakdown?

Vogel: I really can't answer that questions for you now, but I can get that information to you out of our cost estimates.

Ward: Mr. Ramirez, how do you envision developing this? Do you have a game plan, you start from the south and work your way north and then you put the crossings in as the funding is available? Do you have in your fiscal budget the funding for this project?

Ramirez: We currently have in our budget the funding for our share of the design portion of the project. The City is currently taking steps to reevaluate our impact fees in different areas, one area being parks improvements. This will be a major project within that program. It's our intent long-term to generate cash to finance projects such as this through impact fee collection.

Ward: Do you have citizens at risk right now because of fires or public safety when this area floods?

Ramirez: We definitely have a situation of longer response times, because when we have a storm event and any one roadway crossing could be closed it does mean that there is a delay on getting from the east side of the channel to the west side.

Cherrington: When ADOT designed the detention basins, did they anticipate this flow going through there basins.

Vogel: It's my understanding that they did not anticipate this conversion happening in the design of their detention basins. I believe their design was based on the amount borrow material they needed for the freeway, as well as some off-site flows from the north coming down and protecting their freeway from those flows. What we would do as part of this project, as I indicated, reconfigure and re-grade those basins to handle the flows coming across from the Bullard Wash.

Cherrington: You talk about agricultural return flows, is that our idea or the Irrigation District's?

Tom Johnson: I believe that is our idea. Those basins are over-sized and we saw that as an opportunity in our planning studies to pick those up, not only to use those to convey storm water but also multi-purpose type uses as well. ADOT was looking at trying to get rid of them, so we tried to put together a package that would work well for everyone. If I may address the Board regarding Mr. Martin's question. We discussed this at length about 'to bridge or not to bridge' and I don't recall that there was a decision made. I can't think of a case where we have built any projects where we have constructed a channel that if there was some kind of crossing, these box culverts have always been a part of those projects. Early in our planning and conversations with the cities, we typically tell them we've got to get across this road with our channel, we just can't stop it there and start it. If their intent was not to improve the road at all, we would be forced to do something. I think the key point is that we recognize that we needs to do something to convey that water, but we do it as minimally as we can.

ACTION: It was moved by Mr. Cherrington and seconded by Mr. Ward to approve staff's revised recommendations for the design phase of this project. The motion carried five to one, with a nay vote from Mr. Martin.

5) HAWES ROAD CHANNEL IMPROVEMENTS

Paul Stears, Project Manager, presented IGA FCD 2000A018 with the City of Mesa for channel improvements along Hawes Road from Apache Trail to north of Southern Avenue.

The overall estimated cost of the project is \$4 million, with the District's share at 65% or \$2.6 million. The District will be the lead agency on the project, but at the completion of the project, we will transfer land rights to the City of Mesa along with the operation and maintenance. The City will be responsible for 35% of the cost or \$1.4 million, will retain all land rights, and assume the operation and maintenance upon completion of the project.

Staff recommended that the Flood Control Advisory Board approve and recommend that the Board of Directors approve IGA FCD 2000A018.

Discussion:

Callow: How did we end up with the 65/35 cost share?

Stears: The City requested a 35% cost share on this particular project. There are some areas within the project that are unincorporated Maricopa County and not the City of Mesa. Also, the entire project will be transferred to the City of Mesa for the O&M.

Callow: What percentage is Maricopa County contributing?

Stears: Flood Control, as part of the County, our percentage is 65%.

Callow: I thought this was a separate district and not part of the County.

Patel: Is the channel going to be concrete lined?

Stears: Yes, this will be a concrete lined channel.

Ellegood: The concrete cross-section was basically a request by the City of Mesa and is in keeping with the remaining part of that same flood control structure. Clearly, I've been a very strong advocate for not having these concrete channels all over the County, but in this instance it makes sense to keep it consistent.

Martin: I think that even though part of this project is in the County, obviously the City of Mesa wants it and obviously they are going to incorporate that part of it into the City of Mesa. I think they should be sharing 50% of the cost. Can we modify the motion to be 50% of the cost?

Long: I agree with Mel.

Ellegood: There is someone here from the City of Mesa and perhaps, if he wishes, may be able to provide some insight into this.

Peter Knudson, Assistant City Engineer, City of Mesa: Part of the logic when we requested funding percentage was that significant part of the area that is unincorporated. There are large parts in Mesa's planning area which is unincorporated and Mesa does not necessarily control that annexation, it's at the request of the residents, and many of those areas have no desire to become part of the City. It's our anticipation that those would remain unincorporated.

Patel: Do you have a feel percentage wise what that unincorporated area is?

Knudson: No, I don't think we have broken that out.

Stears: I can show you on the map which area is unincorporated Maricopa County.

Callow: I asked my question, not because I wanted Mesa to pay 50% of the cost of this project, but rather to point out the fact that we are inconsistent. As you know, I strongly oppose the 50% match requirement. If anything I did is going to cost Mesa money, I'd like to retract my question.

Martin: I think we've been trying to hold to the 50% rule and we've been doing a pretty good job of it and here all of a sudden we've got a project that's not that way.

Ellegood: The point is that a substantial part of it does lie within unincorporated Maricopa County as well as is a large part of the watershed, which certainly makes the project regional. The discussion, is that we are not getting additional funds from any other part of the County to do this. County Planning & Development or the County Board of Supervisors isn't a cost share partner in this. Mr. Callow is absolutely correct, it does appear to be inconsistent, but that's the arena we're in. I think, given the apparent percentages of the project that lie within the City of Mesa, 35% is probably overly generous on behalf of Mesa. It appears to be a fair shake if you can disregard the part that the County general fund isn't participating.

Patel: If you carve the project up into little pieces, then it might pencil out as far as the percentages. We could think of it as three individual projects, and two of those pieces would be totally County.

Cherrington: I assume that was the logic, Mr. Knudson, when you came up with the 35%?

Knudson: Yes, the northern ½ mile between University and Main is actually in the County, so part of the agreement is that we take over the maintenance, although it is not in the corporate

Mesa. Part of the rationale is that we're accepting responsibility for a channel that is not in incorporated Mesa, as part of our contribution.

Ward: Mr. Knudson, this looks like an area that was lot-split and built out within the County, is that the problem – that there wasn't proper retention/detention facilities as this area developed?

Knudson: That's part of it – east Mesa has that concern, but also there is a lot of undeveloped area which has a lot of runoff. As it develops in the future, we will have less runoff. There is no outfall in that area. This is the upper-reaches of a much larger project that the Flood Control District started – Southern Avenue Channel. This project is an integral portion of a much larger project the Flood Control District has been undertaking for many years.

Cherrington: There are County islands all over the place, is this a precedent or are there others where they have done similar?

Ellegood: To my knowledge it's not a precedent at all, it's something we've done in the past. I think that what has occurred over the past several years is with the increased emphasis on cost share with our client cities. The issue of cost share versus non-cost share in unincorporated parts of the County has become obvious, so consequently people are more sensitized to it three or four years ago.

Callow: I'll be supporting staff recommendation. I think it is a fair deal for Mesa and I think it's a fair deal for the Flood Control District because I do think there is a lot of County involvement.

ACTION: It was moved by Mr. Callow and seconded by Mr. Cherrington to approve staff recommendations. The motion carried five to one, with a nay vote from Mr. Martin.

6) AGUILA AREA DRAINAGE MASTER PLAN UPDATE

Russ Miracle, Planning Branch Manager, presented an update on the Aguila Area Drainage Master Plan.

In March, the Resolution authorizing the studies and Floodplain Delineations were brought to the Advisory Board. The Resolution authorized the District to cooperate with LaPaz County to extend the study into LaPaz County with the provision that they provide the funding for that additional work. At that point in time, they had not received funding for that. At this point in time, LaPaz County does not have the funding nor do they have expectations of getting the funding. The Advisory Board requested that the District give LaPaz County 90 days to pursue funding for their study and that time has passed.

The next step is to contract for the studies for mapping and engineering services. The District will contract with aerial mapping companies to provide ground topographic data that are required for the floodplain delineations and for the studies. The District will contract for engineering services to conduct floodplain delineations.

To get all of Maricopa County mapped at 10-foot contour intervals, which means an elevation contour every 10 feet in relief, the District will pay \$188 per square mile. The 10-foot contour mapping is not accurate enough for the District to conduct detailed floodplain delineations to meet FEMA requirements. FEMA requires at least 4-foot or less for contour interval. What the District will pursue is 2-foot contour intervals for selected areas, with an expected cost of \$5,000 per square mile, which is a little bit cheaper than what has been done in past studies.

The emphasis for the study in this area is to 1) identify what improvements remain in harms way; and 2) develop the floodplain delineations and the warning system and give our Regulatory

people the information they need to prevent future construction, in what is really a difficult hydraulic area.

Discussion:

Ward: In this area, are the storms changing the delineations that were previously defined? Is it because of the soils out there that you have erosion and you have real concern over the changing of the floodway delineation?

Miracle: That really isn't the case. In this area we haven't noticed any movement in the drainage pattern itself because of erosion. It's mostly a case of we haven't delineated it yet. Our ambition is to get the new areas delineated so we can prevent any new construction in those areas at elevations that are less than safe.

Ward: Mike, remember our discussion about maybe four or five months ago about the Army Corps of Engineers. Do you think they are available to help us with a program like this?

Ellegood: They would be available if we asked them, but the process is extraordinarily long and difficult. It is subject to specific congressional authorization, and by the time we got the Corps involved it would be probably three to five years. Although we've not developed a strategy yet – and this is part of the effort – realistically we don't anticipate spending a lot of CIP dollars in Aguila. Rather, we anticipate identifying the hazard to keep people out of it. Consequently, the overall cost for this effort is relatively low. At the same time, we are asking the Corps for assistance in the Rio Salado and Tres Rios projects, these major projects in the City of Phoenix. We are going to be asking them for help on the Agua Fria River, and these are multi-million dollar projects that exceed our ability to fund. I think we are looking at an effort here of less than \$1 million. Given the recent flooding history, the fact that any mapping out there that we already have is really not very accurate, and that there is some growth pressures out there, I think it is prudent that we go in and at least do the delineation of the mapping effort.

Patel: That will be through building permit issuance.

Miracle: Yes. Given the floodplain delineation information, our Regulatory people will have the information they need to provide guidance to developers and individuals in the area.

Patel: Are we going to be spending around \$1 million to study this?

Miracle: We do estimate the cost for the entire program at \$1 million, about 2/3 of that is for survey, mapping, and floodplain delineation.

Patel: We don't anticipate being able to program any funds in our CIP for actual work?

Ellegood: It's cost benefit stuff. The community out there is rather well dispersed. Some people are in harms way. There are some other issues out there specific in nature – the ADOT Highway SR71 Bridge is kind of an obstruction and is creating some back-water issues, and there are some other kinds of encroachments that have occurred in natural drainage that probably are creating problems. We don't anticipate coming back to you and saying 'let's spend five or seven million dollars to construct infrastructure out there. At this juncture, what we probably need to do is develop an idea of the problem, keep people out of it, and maybe do some minor kinds of mitigation.

Patel: When you go into a fairly poor area like this with a million dollars and all you are going to come up with paper. Have we sat down with them as to what their wishes are? If we're going to write a million dollar check, maybe we say 'hey look, our best guess is stay 500 feet away on either side and you still have a million dollars and you can spend it on some type of ditches.' I don't think \$1 million for some maps is necessarily a good policy here.

Ellegood: Part of our statutory obligations are to delineate areas that we know to be flood prone and where development of some kind is imminent. There is some development that is occurring out there, admittedly it's not like Mesa or the northeast valley, but there is development going on out there. We are spending \$1 million now to acquire properties that we know to be flood prone – we're getting this money from FEMA to buy people out – and we think we need to keep

avoiding future problems as development occurs. Is it money well spent in a relatively low economic area? Maybe that's a policy decision that the Board should decide on. I feel that we should spend the money that it takes to fulfill our statutory obligations regardless of the economic situation of the community that we are dealing with.

Patel: I'm not against us spending the money, but it would make for pretty bad press to explain to somebody there, that after spending a million dollars they are still in harms way because we don't have the money to construct the improvements or buy their property.

Ellegood: Part of this program may suggest that we acquire some properties, but I don't anticipate putting in large basins and channels and going through our typical process because I don't think the cost benefit is there.

Patel: We know we are up against that.

Cherrington: I think you're in a difficult situation, too, because I think those properties, especially if they are already developed, you are going to lower the value of those properties if they are in that floodplain.

Ellegood: Quite possibly.

Martin: I bet you could put 50 of them in this room and they could tell you where it floods. We don't need a million dollar map to tell me where it floods. Are you going to fly this, is that how you are going to delineate this?

Miracle: That's right.

Martin: And it's down to around \$5,000 a lot?

Miracle: Yes, for the detailed mapping within the indicated area.

Martin: How many square miles are we doing that with?

Miracle: Thirty-four square miles.

Martin: Where is the rest of the money being spent?

Miracle: We're estimating and these estimates are based on what it has cost us for previous work that we've had done. This is not a negotiated amount or contract amount. We're estimating cost for the mapping and surveying, within that 34 square miles, at \$170,000. For the Zone A delineations, we've got 150 linear miles of stream wash out there that have not yet been delineated. We estimate the cost at about \$2,000 per mile for a total of \$300,000. The detailed delineation is along the railroad and highway extending our existing delineation six miles to the east. We feel that's necessary to be able to quantify and define how much of the water is currently over-topping the railroad and flowing into town. As well as, to provide flood insurance mapping of the private lands along the north side of the railroad.

Ward: Are there any major development plans, are you sharing what you are doing with the Planning Department. This issue that came up several meetings ago about the school that was built in the Agua Fria floodplain, my biggest fear is that somehow somebody isn't warned and they go out and do a major development.

Ellegood: These plans when they are done will be shared with all of the appropriate planning departments, property owners, etc. To my knowledge, there is no major development out there. Generally speaking, the property north of Highway 60 and the railroad track is owned by major farm interests. The community itself largely provides housing for the farm workers that work on Martori Farms. There are a couple of residential areas – there's an airport residential park that's south of Highway 60, typically a little bit higher terrain than the town itself.

Cherrington: Do they know in advance that you're doing it? We've had other areas that don't find out until it's already delineated.

Miracle: I can't speak to the past, but as part of the Area Drainage Master Plan (ADMP), we will be giving landowners notice. The public meetings we've had to date out there deal with the FEMA grant that we received and the post flood event activity and were well attended. As part of the ADMP effort, we will be holding at least four public meetings and we will be notifying landowners individually. The primary landowner, in this case, is going to be State Land.

Patel: As far as La Paz is concerned, are we going to extend this study to La Paz County since they didn't get their funding?

Miracle: With passage of the Resolution, we have authorization to cooperate with La Paz County should they come up with funding during the course of our study, we could expand our effort.

Patel: That, I believe, would double the cost, right?

Miracle: Yes, it would more than double the cost.

ACTION: No action was required – for information and discussion only.

7) SPOOK HILL ADMP ALTERNATIVES

Afshin Ahouraiyan, Project Manager, presented an update on the Spook Hill Area Drainage Master Plan.

The purpose of this study was per a request from the City of Mesa to help them come up with alternatives to control flooding that occurs in this area. The goal of the planning study is to update a study that was done in the 80's. A study was done in 1987, but the alternatives that were recommended never got implemented. Development is occurring and the flooding is still a problem that needs to be addressed.

Alternatives were put together by District staff, however, Supervisor Stapley gave staff new directions. As a result of his directive, a Stakeholders Committee comprised of residents in that area will be formed to review our work. What this committee will be doing is to actually filter through some of the alternatives staff will come up with. Advisory Board member Mike Saager has been appointed to this committee by Supervisor Stapley.

Discussion:

Patel: What is our overhead on this project, do we have a consultant on board?

Ahouraiyan: Yes, we have been paying a consultant. Total cost of the project is \$1.5 million.

Patel: Does it make sense to keep studying this while the politicians are trying to figure out what to do, or do we put things on ice and wait until they tell us what to do?

Ellegood: I don't think we have, at this juncture, an alternative to basically say we're going to push a hold button and you guys figure out what you want us to do. I think the direction that we got from Director Stapley and the elected officials from the City of Mesa was pretty specific. I think they recognize there is flood hazard there, they just felt that there was a better alternative than the ones that we had proposed and developed to date. I'm told that we should have some resolution by early December from the work of that committee.

Patel: So all of the \$1.5 million would be down the drain, or is a lot of it salvageable? I guess the flood flows and technical work is still usable.

Ahouraiyan: Hydraulics/hydrology is salvageable, but the alternatives will need to be looked at again.

Martin: There was a study done in 1980?

Ahouraiyan: There was an ADMP study that was done in 1987.

Martin: Was this in the City of Mesa or in the County?

Ahouraiyan: It was pretty much in the same area that we are looking at.

Martin: Most of it is in the City of Mesa?

Ahouraiyan: It's both County and City. We have a very good portion that is Maricopa County

Martin: What agency in the County is not communicating with Flood Control District? We had a study done in 1987 and most of that building has been done since then. Why would the County issue permits when they knew it was going to flood?

Ellegood: What has happened since 1987 is that there was a series of infrastructure needs that were identified, including flood retarding structures, channels, etc. At that time, in 1987, neither the City of Mesa nor us at the District had the funds to construct these. What happened in the ensuing years is that the City of Mesa and to some extent the County, permitted development to occur on the parcels that had been identified for flood control structures, so those earlier options were not longer there. I agree with you – I think some foresight was missing there.

ACTION: No action was required – for information and discussion only.

8) FOURTH QUARTER FY 00/01 RESULTS

Michael Alexander, Management Analyst, gave a final report on the financial results of operations during FY 00/01. The District collected approximately 89% of the budgeted revenue. The District spent about 89% of the budgeted expenditures. The practical result is that the District achieved its goal of spending down the unreserved fund balance and have only a minimum reserve fund balance remaining.

Discussion:

Martin: Was there carryover money from 2000 that you hadn't collected? You mentioned that there was a shortfall because of carryover money that didn't get paid in 2001 that will get paid in 2002. Was there carryover money from the previous year?

Alexander: I'm sure there was, but I don't know the exact figure.

Martin: You mentioned that there was a shortfall in the income; what part of it was going to be paid in 2002? I wonder if there was money due in 2000 that was actually paid in 2001?

Alexander: Yes, that is a circumstance that occurs every year to a greater or lesser degree. It is also an item that is almost impossible to forecast.

ACTION: No action was required – for information and discussion only.

7) COMMENTS FROM THE DEPUTY CHIEF ENGINEER

Mike Ellegood introduced Mr. Husan Mushtaq who was in the audience. Mr. Mushtaq is an alumnus of the District, left for a position with the City of Phoenix, and has recently been selected to be the new floodplain manager for the City of Phoenix.

Mr. Ellegood drew the Board's attention to the conference room. This was the first meeting of the Flood Control Advisory Board in the remodeled and updated room.

Mr. Ellegood mentioned that he will be on vacation the next meeting of the FCAB. Mr. Tom Johnson will sit in for Mr. Ellegood.

Mr. Ellegood asked Julie Lemmon to give the Board members an update on the litigation with certain representatives of the sand & gravel industry. Ms. Lemmon mentioned that most of the Board members were in attendance at the Floodplain Review Board meeting in the Spring and hear the appeal of Rockland Materials. Subsequent to that, the District has had two or three different court appearances regarding Rockland. First there was an attempt by Rockland to get a temporary restraining order to keep the District from closing them down. That was decided in our favor by the Judge and said that Rockland could not get a temporary restraining order against the government. Then that was withdrawn by Rockland; they dismissed their whole action after

the Judge made the decision. There is an issue as to whether that decision was appropriate, so the District is still having hearings with the Judge. After that, the District filed an injunction to close Rockland down until they got their permit and that was heard in May. The Judge decided that there needed to be a full evidentiary hearing and actually scheduled a small trial in October on the issues that were involved. Looking at the documents that came out, David Benton with the County Attorney's office felt that the Judge had not correctly read the law, which is in the Floodplain Statutes and particularly some sections that were changed in 1992 to address specifically who has to get a permit. The Legislature changed this in 1992 to, we believe, to say that if you are in a delineated floodplain, no matter what your activity, you must come and get a permit. The District, represented by County Counsel, filed a motion for reconsideration with the Judge and she agreed to reconsider her decision. While the Judge was reconsidering, two more sand & gravel operations moved to intervene on the side of Rockland, saying that 'this was not fair, that you should have to get a permit to do sand & gravel in a delineated floodplain.' The two companies are New West Materials and Deer Valley Partnership/Gravel Resources, Inc. The Judge denied their motion to intervene in the case, but has not yet given the District a decision on the reconsideration on whether she read the statute correctly or not. What the District does next depends on whether she obviously decides in our favor and says that Rockland needs to get a permit because they are in the floodplain, in which case Ms. Lemmon would assume that the Judge would be in a position to grant the injunction against Rockland. If not, Ms. Lemmon does not know what the District will do next. Ms. Lemmon indicated that everything she has shared with the Board today is a matter of public record. She asked that if the Board members get any questions and want to talk with her to feel free to call her or David Benton. In the interim, in addition to attempting to intervene, New West Materials filed a Notice of Claim against the Flood Control District. Under State law, to sue a government, you have to file this claim and Ms. Lemmon believes the government has six months to respond to that claim before an action can be filed against them. New West filed a Notice of Claim against the District for almost \$0.5 million, saying that's what they had to pay to get their floodplain permit at the site that was recently permitted by the District – they went through the channels for a floodplain permit at the confluence of the Agua Fria, right at the edge of Avondale. They filed a claim asking the District to pay them back what they had to pay because the District should not have made them get a floodplain permit because they, like Rockland, were not in a watercourse diverting, obstructing, or retarding the flow of water. By next month, Ms. Lemmon should have more information to give the Advisory Board.

Ms. Lemmon mentioned that the District just finished their disclosure on "A Tumbling T," Paloma Dam litigation on why the dam might have fallen down. Ms. Lemmon advised the Board that if they get any questions, this litigation is being handled by John Helm on behalf of the District. Ms. Lemmon mentioned that she is also up-to-speed on the details and would be happy to talk with the Board members individually if they have any questions.

Mr. Ellegood indicated that the major thing is the fact that the Rock Products Industry is challenging our authority to regulate in floodplains. The District will be defending what they consider their authority to be.

On August 6, Mr. Ellegood had the opportunity, along with Vice Chair Shirley Long and Dick Perreault, to make a presentation in work session to the County Board of Supervisors. The purpose of this presentation was that Mr. Ellegood accepted a challenge from the Board about four-and-a-half years ago with regard to the tax rate among several other things. In addition, Mr. Ellegood wanted to provide the Board with a forecast of where he thought the District was headed in the future. The tax rate in FY 1997 was 34.25 cents and the challenge Mr. Ellegood received from the Board was to lower the rate by seven cents over five years. The tax rate is currently at

23.19 cents, which generates \$45 millions worth of tax revenue. Mr. Ellegood explained that if the District is to continue at a \$45 million rate based on projections from the economists hired by the County, in 2005 the tax rate would be at about 18.5 cents. To meet our known, current CIP obligations, the District needs to increase the tax rate this next FY by one cent. Mr. Ellegood pointed out to the Board that \$45 million a year is inadequate to support the District's proposed programs. Mr. Ellegood indicated that the feedback he received after the presentation was quite positive. He thinks that he was able to get his message across, which was that the District has done what they said they would do and now they need some relief. Shirley Long mentioned that the Flood Control District has been fiscally appropriate. Ms. Long indicated that adjusting to the cost of living plus the one cent increase the District is asking for, they are still within the same range they began – tax-wise – forty years ago.

Ms. Lemmon referenced the information she distributed to the Board members as they arrived. At the last meeting of the Board there was a discussion about what people know or find out when they buy property about what the situation is with the floodplain. Ms. Lemmon conducted a little research and indicated the first document "Arizona Department of Real Estate Property Buyer's Checklist." She noted that it talks about new homes and says the public report will tell you things like flooding and drainage disclosure. The second item is the standard "Residential Seller's Property Disclosure Statement." This is used by almost every realtor in Arizona. Ms. Lemmon referenced page 3, questions 122 and 124 asks if there "Is any portion of the property in a flood plain/way? Explain" and "Has the property ever been flooded? Explain." She pointed out that it gives the option to check "yes," "no," and "unknown." If you were buying a house, it's possible if somebody didn't know they could just put unknown and say 'I don't know, I haven't lived here long enough' or 'I bought it through a broker.' The third set of documents titled "Land Disclosure Affidavit Required By A.R.S. §11-806.03" is statutorily required by Arizona for people buying subdivided land, without a house on it. Page 1, question 5 says "A portion of the property _is _is not located in a regulatory floodplain. (Explain)." There is no 'unknown' block there; you have to tell if it is or is not in a floodplain. These are the standard, most common disclosure property reports available.

8) SUMMARY OF RECENT ACTIONS

Actions of the Board of Supervisors were included in the FCAB packet.

8) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 4:25 p.m. by general consent.

Mike Saager
Secretary of the Board

Kathy Smith
Clerk of the Board